

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4720 of 1987

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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RN GAMI

Versus

GUJARAT STATE LAND DEVELOPMENT CORP LTD  
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Appearance:

MR JR NANAVATI for Petitioner  
MR HS MUNSHAW for Respondent No. 1  
M/S PATEL ADVOCATES for Respondent No. 2  
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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 20/06/2000

ORAL JUDGEMENT

#. Neither of the learned advocates is present on call.

#. The petitioner is the Government servant in

Agriculture Department. In the year 1982 the Gujarat State Land Development Corporation was constituted and some of the functions of the Agriculture Department were transferred to the said Corporation. Alongwith the functions, some employees were also transferred to the Corporation initially on deputation. The petitioner, then serving as Agricultural Supervisor, was also transferred to the Corporation on deputation. Upon inviting the options, the petitioner had opted to retain his services with the State Government. However, the petitioner was not repatriated to the State Government. Thus, the petitioner continued with the Corporation on deputation. Being Agricultural Supervisor, the petitioner was required to perform certain field duties for which he was entitled to travelling allowance. Terms and conditions of the deputation stipulate that "DURING THE PERIOD OF DEPUTATION THEY WILL BE ENTITLED TO GET TRAVELLING ALLOWANCE AT THEIR OPTION UNDER THE RULES OF THE STATE GOVERNMENT OR AS PER RULES OF THE CORPORATION". The petitioner maintains that, travelling allowance prevailing in the State Government is more beneficial to the petitioner. For the touring made in the month of February, 1984, the petitioner had submitted a bill at the rate prevalent in the State Government. The petitioner's claim for travelling allowance was turned down on 29th May, 1984. Upon perusal of the correspondence annexed to the petition, it appears that, the authority had relied upon the Circular dated 9th January, 1984. The circular stipulates that the travelling allowance shall not be permissible for the touring done within the area of sub-division. The concerned authority held out that the petitioner had done his touring within the area of the sub-division, and therefore, he was not entitled to the travelling allowance. The petitioner insisted that, he was still a Government employee on deputation to the Corporation and he was entitled to claim travelling allowance in accordance with the Rules prevalent in the State Government. Thereupon, he was informed that, he had assessed dearness allowance at the rate prevalent in the Corporation and thus he had opted to be governed by the Rules prevailing in the Corporation. In view of the prevailing instructions, he having made touring within the area of sub-division he was not entitled to the travelling allowance in accordance with the Rules/rate prevalent in the State Government.

#. Feeling aggrieved, the petitioner has filed the present petition.

#. The petition has been admitted to final hearing on

23rd November, 1988 and the respondents were directed to file their affidavit latest before 30th June, 1989. However, till today, no affidavit has been filed in the court.

#. In absence of any opposition, averments made in the petition are required to be relied upon. It appears that the petitioner had opted to be retained in the Government service and to be governed by the provisions prevalent in the State Government in respect of the travelling allowance. However, upon perusal of the correspondence, it appears that, though the petitioner had opted for being governed by the Government Rules, he had assessed dearness allowance at the rates prevailing in the Corporation. Such hotchpotch claim could not have been considered. The petitioner has to make claim either according to the Government Rules or in consonance with the Rules prevailing in the Corporation. The petitioner, therefore, will claim travelling allowance for the month of February, 1984 afresh in accordance with Rules prevailing either in the State Government or in the Corporation. If, such a bill is submitted, the Corporation shall consider the same and make the order in accordance with law. If, the petitioner is found to be entitled to the travelling allowance, the same should be paid within six weeks from the date of submitting the bill.

#. The petition is allowed to the aforesaid extent. Rule is made absolute accordingly. The parties shall bear their own costs.

(Ms.R.M.Doshit,J)

(pathan)